

Office of the Secretary of Labor

§ 20.90

of the administrative law judge's written decision.

(b) If the debtor owes more than one debt and designates how a voluntary installment payment is to be applied as among those debts, that designation must be followed. If the debtor does not designate the application of the payment, agencies should apply payments to the various debts in accordance with the best interests of the United States, as determined by the facts and circumstances of the particular case, paying special attention to applicable statutes of limitations.

(c) If the employee retires or resigns or if his or her employment or period of active duty ends before collection of the debt is completed, under 5 U.S.C. 5514, salary offset shall be from subsequent payments of any nature (e.g., final salary payment, lump-sum leave, etc.) due the employee from the paying agency as of the date of separation to the extent necessary to liquidate the debt.

(d) If the debt cannot be liquidated by salary offset from any final payment due the former employee as of the date of separation, under 5 U.S.C. 5514, administrative offset shall be from later payments of any kind due the former employee from the United States.

§ 20.85 Notice of offset.

Prior to effecting a salary offset, the paying DOL agency should advise the debtor of the impending offset. This notice should state that the debtor has been provided his/her rights under 5 U.S.C. 5514, that a determination has been made that collection by salary offset would be in the best interests of the United States, the amount of the offset, the date the salary offset will begin, and that the source of funds shall be from current disposable pay, except as provided by (c) and (d) of § 20.84. If evidence suggests that the debtor is no longer located at the address of record, reasonable action shall be taken to obtain a current address.

§ 20.86 Non-waiver of rights by payments.

An employee's involuntary payment, of all or any portion of a debt being collected under 5 U.S.C. 5514, shall not

be construed as a waiver of any rights which the employee may have under 5 U.S.C. 5514 or any other provision of contract or law, unless there are statutory or contractual provisions to the contrary.

§ 20.87 Refunds.

(a) Agencies shall promptly refund to the appropriate party amounts paid or deducted under this subpart when—

(1) A debt is waived or is otherwise not owing to the United States (unless refund is expressly prohibited by statute or regulation); or

(2) The employee's paying agency is directed by an administrative or judicial order to refund amounts deducted from his or her current pay.

(b) Refunds do not bear interest unless required or permitted by law or contract.

§ 20.88 Additional administrative collection action.

Nothing contained in this subpart is intended to preclude the utilization of any other administrative remedy which may be available.

§ 20.89 Prior provision of rights with respect to debt.

To the extent that the rights of the debtor in relation to the same debt have been previously provided by the creditor agency under some other statutory or regulatory authority, the creditor agency is not required to duplicate those efforts before taking salary offset.

§ 20.90 Responsibilities of the Chief Financial Officer.

The Chief Financial Officer, or his or her designee, shall provide appropriate and binding written or other guidance to Department of Labor agencies and officials in carrying out this subpart, including the issuance of guidelines and instructions, which he or she may deem appropriate. The Chief Financial Officer shall also take such administrative steps as may be appropriate to carry out the purposes and ensure the effective implementation of this subpart.